

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:13-cv-00277-FDW**

BRANDON MICHAEL PICKENS,)	
)	
Petitioner,)	
)	
v.)	<u>ORDER</u>
)	
BRAD PERRITT,)	
)	
Respondent.)	
)	
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)

THIS MATTER is before the Court on Petitioner’s “Motion to Vacate Judgment” pursuant to Federal Rules of Civil Procedure 60(b)(6) and 60(d)(3), [Doc. 51], and Petitioner’s Application to Proceed in Forma Pauperis, [Doc. 52].

On December 19, 2013, the Court granted Respondent’s motion for summary judgment and denied and dismissed Petitioner’s petition for writ of habeas corpus under 28 U.S.C. § 2254. [Doc. 11]. Petitioner appealed and the Fourth Circuit dismissed the appeal. [Docs. 18, 21]. On July 28, 2016, the Court denied Petitioner’s then-pending Rule 60(b) and Rule 59(e) motions seeking relief from the Order dismissing the petition. [Doc. 34]. Petitioner appealed the denial of these motions, and the Fourth Circuit again dismissed the appeal. [Docs. 35, 41]. On October 13, 2016, Petitioner moved the Court to reconsider its July 28, 2016 Order. [Doc. 38]. The Court denied Petitioner’s motion for the same reasons that it denied Petitioner’s prior motions for relief, noting that “Petitioner is not entitled to relief from judgment on his underlying habeas petition.” [Doc. 40].

Now pending is yet another motion to reconsider the Court’s denial of Petitioner’s original habeas petition. [Doc. 51]. This time Petitioner purports to seek relief under Rule 60(b)(6) for

“any other reason that justifies relief” and under Rule 60(d)(3) for “fraud on the court.” [Id. at 1].

Petitioner has wholly failed to show he is entitled to relief under these provisions.

Petitioner is admonished that future filings seeking the Court to reconsider its denial of Petitioner’s habeas petition or subsequent orders denying reconsideration thereof may be summarily stricken and/or subject Plaintiff to other sanctions.

ORDER

IT IS, THEREFORE, ORDERED that Petitioner’s “Motion to Vacate Judgment” [Doc. 51] is **DENIED WITH PREJUDICE** and Petitioner’s motion to proceed in forma pauperis [Doc. 52] is **DENIED** as moot.

Signed: March 3, 2023


Frank D. Whitney
United States District Judge